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UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

**Grant Albee,**

Plaintiff,

v.

**ITSA Contracting, LLC**, an Arizona  
limited liability company, **Eric Moore**  
**and Jane Doe Moore**, a married couple,  
and **Lance Guest and Jane Doe Guest**,

Defendants.

No. \_\_\_\_\_

**VERIFIED COMPLAINT**

Plaintiff, Grant Albee (“Plaintiff”), sues the Defendants, ITSA Contracting, LLC,  
Eric Moore and Jane Doe Moore, and Lance Guest and Jane Doe Guest (“Defendant”)  
and alleges as follows:

**PRELIMINARY STATEMENT**

1. This is an action for unpaid minimum wages, liquidated damages,  
attorneys’ fees, costs, and interest under the Fair Labor Standards Act (“FLSA”), 29  
U.S.C. § 201, et seq.; and unpaid minimum wage under the Arizona Minimum Wage Act  
(“AMWA”), Arizona Revised Statutes (“A.R.S.”) Title 23, Chapter 2, Article 8, and  
unpaid wages under the Arizona Wage Act (“AWA”) A.R.S. § 23-350, et seq.

1           2.       The FLSA was enacted “to protect all covered workers from substandard  
2 wages and oppressive working hours.” Barrentine v. Ark Best Freight Sys. Inc., 450 U.S.  
3 728, 739 (1981). Under the FLSA, employers must pay all non-exempt employees a  
4 minimum wage of pay for all time spent working during their regular 40-hour  
5 workweeks. See 29 U.S.C. § 206(a).  
6

7           3.       The AMWA, A.R.S § 23-362, et seq., establishes a minimum wage within  
8 the State of Arizona.

9           4.       The AWA, A.R.S. § 23-350, et seq., establishes standards for wage  
10 payments to employees within the State of Arizona.  
11

### 12                                   **JURISDICTION AND VENUE**

13           5.       This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and  
14 29 U.S.C. § 201, *et seq.* because this civil action arises under the Constitution and law of  
15 the United States. This Court also has subject matter jurisdiction pursuant 28 U.S.C. §  
16 1367 because the state law claims asserted herein are so related to claims in this action  
17 over which this Court has subject matter jurisdiction that they form part of the same case  
18 or controversy under Article III of the United States Constitution.  
19

20           6.       Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(ii) because  
21 acts giving rise to the claims of Plaintiff occurred within the District of Arizona, and  
22 Defendants regularly conduct business in and have engaged in the wrongful conduct  
23 alleged herein – and, thus, are subject to personal jurisdiction in – this judicial district.  
24  
25

### 26                                   **PARTIES**

27

1           7.       At all times material to the matters alleged in this Complaint, Plaintiff was  
2 an individual residing in Pima County, Arizona, and is a former employee of Defendant.

3           8.       At all material times, Defendant ITSA Contracting, LLC is a limited  
4 liability company duly licensed to transact business in the State of Arizona. At all  
5 material times, Defendant ITSA Contracting, LLC does business, has offices, and/or  
6 maintains agents for the transaction of its customary business in Maricopa County,  
7 Arizona.

8  
9           9.       Under the FLSA, Defendant ITSA Contracting, LLC is an employer. The  
10 FLSA defines “employer” as any person who acts directly or indirectly in the interest of  
11 an employer in relation to an employee. At all relevant times, Defendant ITSA  
12 Contracting, LLC had the authority to hire and fire employees, supervised and controlled  
13 work schedules or the conditions of employment, determined the rate and method of  
14 payment, and maintained employment records in connection with Plaintiff’s employment  
15 with Defendants. As a person who acted in the interest of Defendant in relation to the  
16 company’s employees, Defendant ITSA Contracting, LLC is subject to liability under the  
17 FLSA.

18  
19  
20           10.      Defendants Eric Moore and Jane Doe Moore are, upon information and  
21 belief, husband and wife. They have caused events to take place giving rise to the claims  
22 in this Complaint as to which their marital community is fully liable. Eric Moore and  
23 Jane Doe Moore are owners of Defendant ITSA Contracting, LLC and were at all  
24 relevant times Plaintiff’s employers as defined by the FLSA, 29 U.S.C. § 203(d).  
25  
26  
27

1           11. Under the FLSA, Defendants Eric Moore and Jane Doe Moore are  
2 employers. The FLSA defines “employer” as any person who acts directly or indirectly  
3 in the interest of an employer in relation to employee. Defendants Eric Moore and Jane  
4 Doe Moore had the authority to hire and fire employees, supervised and controlled work  
5 schedules or the conditions of employment, determined the rate and method of payment,  
6 and maintained employment records in connection with Plaintiff’s employment with  
7 Defendants. As persons who acted in the interest of Defendant ITSA Contracting, LLC  
8 in relation to the company’s employees, Defendants Eric Moore and Jane Doe Moore are  
9 subject to individual liability under the FLSA.  
10

11  
12           12. Defendants Lance Guests and Jane Doe Guest are, upon information and  
13 belief, husband and wife. They have caused events to take place giving rise to the claims  
14 in this Complaint as to which their marital community is fully liable. Lance Guest and  
15 Jane Doe Guests are owners of Defendant ITSA Contracting, LLC and were at all  
16 relevant times Plaintiff’s employers as defined by the FLSA, 29 U.S.C. § 203(d).  
17

18           13. Under the FLSA, Defendants Lance Guest and Jane Doe Guest are  
19 employers. The FLSA defines “employer” as any person who acts directly or indirectly  
20 in the interest of an employer in relation to employee. Defendants Lance Guest and Jane  
21 Doe Guest had the authority to hire and fire employees, supervised and controlled work  
22 schedules or the conditions of employment, determined the rate and method of payment,  
23 and maintained employment records in connection with Plaintiff’s employment with  
24 Defendants. As persons who acted in the interest of Defendant ITSA Contracting, LLC  
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1 in relation to the company's employees, Defendants Lance Guest and Jane Doe Guest are  
2 subject to individual liability under the FLSA.

3 14. Plaintiff is further informed, believes, and therefore alleges that each of the  
4 Defendants herein gave consent to, ratified, and authorized the acts of all other  
5 Defendants, as alleged herein.  
6

7 15. Defendants, and each of them, are sued in both their individual and  
8 corporate capacities.

9 16. Defendants are jointly and severally liable for the injuries and damages  
10 sustained by Plaintiff.  
11

12 17. At all relevant times, Plaintiff was an "employee" of Defendants as defined  
13 by the FLSA, 29 U.S.C. § 201, *et seq.*

14 18. The provisions set forth in the FLSA, 29 U.S.C. § 201, *et seq.*, apply to  
15 Defendants.  
16

17 19. At all relevant times, Defendants were and continue to be "employers" as  
18 defined by the FLSA, 29 U.S.C. § 201, *et seq.*

19 20. The provisions set forth in the A.R.S. Title 23, Articles 7 and 8 apply to  
20 Defendants.  
21

22 21. At all relevant times, Plaintiff was an "employee" of Defendants as defined  
23 by A.R.S. § 23-362.

24 22. At all relevant times, Defendants were and continue to be "employers" of  
25 Plaintiff as defined by A.R.S. § 23-362.  
26  
27



1           34.    Upon information and belief, During his employment with Defendant,  
2 Plaintiff worked approximately 24 hours.

3           35.    Defendant failed to compensate Plaintiff any wages whatsoever for the  
4 hours he spent working for Defendant.  
5

6           36.    Therefore, Defendants paid Plaintiff no wages whatsoever for any of the  
7 hours he worked for Defendants during his employment.

8           37.    After the termination of his employment, Plaintiff contacted Defendant in  
9 an effort to receive his paycheck and Defendants advised Plaintiff that they were not  
10 going to pay him for the hours he worked.  
11

12          38.    To date, Defendant has paid no wages whatsoever to Plaintiff for such  
13 hours worked.

14          39.    As a result of not having paid any wage whatsoever to Plaintiff during his  
15 employment with Defendant, Defendant failed to pay the applicable minimum wage to  
16 Plaintiff.  
17

18          40.    As a result of Defendant's willful failure to compensate Plaintiff any wage  
19 whatsoever for such hours worked, Defendant violated 29 U.S.C. § 206(a).  
20

21          41.    As a result of Defendant's willful failure to compensate Plaintiff any wage  
22 whatsoever for such hours worked, Defendant violated the AMWA, A.R.S. § 23-363.

23          42.    As a result of Defendants' willful failure to compensate Plaintiff any wage  
24 whatsoever for such hours worked, Defendants violated the AWA, A.R.S., § 23-351.  
25

26          43.    Plaintiff was a non-exempt employee.  
27

1           44. Defendants knew that – or acted with reckless disregard as to whether –  
2 their refusal or failure to properly compensate Plaintiff his paycheck would violate  
3 federal and state law, and Defendants were aware of the FLSA minimum wage  
4 requirements during Plaintiff’s employment. As such, Defendants’ conduct constitutes a  
5 willful violation of the FLSA and the AMWA.  
6

7           45. Defendants refused and/or failed to properly disclose to or apprise Plaintiff  
8 of his rights under the FLSA.

9           46. Plaintiff is a covered employee within the meaning of the FLSA.  
10

11           47. Defendants individually and/or through an enterprise or agent, directed and  
12 exercised control over Plaintiff’s work and wages at all relevant times.

13           48. Due to Defendants’ illegal wage practices, Plaintiff is entitled to recover  
14 from Defendants compensation for unpaid minimum wages, an additional amount equal  
15 amount as liquidated damages, interest, and reasonable attorney’s fees and costs of this  
16 action under 29 U.S.C. § 216(b).  
17

18           49. Due to Defendants’ illegal wage practices, Plaintiff is entitled to recover  
19 from Defendants compensation for unpaid wages, an additional amount equal to twice the  
20 unpaid minimum wages as liquidated damages, interest, and reasonable attorney’s fees  
21 and costs of this action under A.R.S § 23-363.  
22

23           50. Due to Defendants’ illegal wage practices, Plaintiff is entitled to recover  
24 from Defendants compensation for his unpaid wages at an hourly rate, to be proven at  
25 trial, in an amount that is treble the amount of his unpaid wages, plus interest thereon,  
26 and his costs incurred under A.R.S. § 23-355.  
27



**COUNT ONE: FAIR LABOR STANDARDS ACT**  
**FAILURE TO PAY MINIMUM WAGE**

51. Plaintiff realleges and incorporates by reference all allegations in all preceding paragraphs.

52. As a result of not paying Plaintiff any wage whatsoever for any of the hours he worked during his employment, Defendant willfully failed or refused to pay Plaintiff the FLSA-mandated minimum wage.

53. Defendant's practice of willfully failing or refusing to pay Plaintiff at the required minimum wage rate violated the FLSA, 29 U.S.C. § 206(a).

54. Plaintiff is therefore entitled to compensation for the full applicable minimum wage at an hourly rate, to be proven at trial, plus an additional equal amount as liquidated damages, together with interest, reasonable attorney's fees, and costs.

**WHEREFORE**, Plaintiff, Grant Albee, respectfully requests that this Court grant the following relief in Plaintiff's favor, and against Defendant:

A. For the Court to declare and find that the Defendant committed one of more of the following acts:

i. Violated minimum wage provisions of the FLSA, 29 U.S.C. § 206(a), by failing to pay proper minimum wages;

ii. Willfully violated minimum wage provisions of the FLSA, 29 U.S.C. § 206(a) by willfully failing to pay proper minimum wages;

B. For the Court to award Plaintiff's unpaid minimum wage damages, to be determined at trial;

- 1 C. For the Court to award compensatory damages, including liquidated  
2 damages pursuant to 29 U.S.C. § 216(b), to be determined at trial;  
3 D. For the Court to award prejudgment and post-judgment interest;  
4 E. For the Court to award Plaintiff reasonable attorneys' fees and costs of the  
5 action pursuant to 29 U.S.C. § 216(b) and all other causes of action set  
6 forth herein;  
7 F. Such other relief as this Court shall deem just and proper.

8  
9 **COUNT TWO: ARIZONA MINIMUM WAGE ACT**  
10 **FAILURE TO PAY MINIMUM WAGE**

11 55. Plaintiff realleges and incorporates by reference all allegations in all  
12 preceding paragraphs.  
13

14 56. As a result of not paying Plaintiff any wage whatsoever for the entirety of  
15 his employment, Defendant willfully failed or refused to pay Plaintiff the Arizona  
16 minimum wage.  
17

18 57. Defendant's practice of willfully failing or refusing to pay Plaintiff at the  
19 required minimum wage rate violated the AMWA, 23-363.

20 58. Plaintiff is therefore entitled to compensation for the full applicable  
21 minimum wage at an hourly rate, to be proven at trial, plus an additional amount equal to  
22 twice the underpaid wages as liquidated damages, together with interest, reasonable  
23 attorney's fees, and costs.  
24

25 **WHEREFORE**, Plaintiff, Grant Albee, respectfully requests that this Court grant  
26 the following relief in Plaintiff's favor, and against Defendant:  
27

1 A. For the Court to declare and find that the Defendant committed one of more  
2 of the following acts:

3 i. Violated minimum wage provisions of the AMWA, A.R.S. § 23-  
4 363, by failing to pay proper minimum wages;

5  
6 ii. Willfully violated minimum wage provisions of the AMWA, A.R.S.  
7 § 23-363 by willfully failing to pay proper minimum wages;

8 B. For the Court to award Plaintiff's unpaid minimum wage damages, to be  
9 determined at trial;

10 C. For the Court to award compensatory damages, including liquidated  
11 damages pursuant to A.R.S. § 23-364, to be determined at trial;

12 D. For the Court to award prejudgment and post-judgment interest;

13 E. For the Court to award Plaintiff reasonable attorneys' fees and costs of the  
14 action pursuant to A.R.S. § 23-364 and all other causes of action set forth  
15 herein;

16 F. Such other relief as this Court shall deem just and proper.  
17

18  
19 **COUNT THREE: ARIZONA WAGE ACT**  
20 **FAILURE TO PAY WAGES DUE AND OWING**

21 59. Plaintiff realleges and incorporates by reference all allegations in all  
22 preceding paragraphs.

23  
24 60. As a result of the allegations contained herein, Defendants did not  
25 compensate Plaintiff wages due and owing to him.

26 61. Defendants engaged in such conduct in direct violation of A.R.S. § 23-350.  
27

1           62. As such, unpaid wages for such time Plaintiff worked are owed to Plaintiff  
2 for the entire time he was employed by Defendants.

3           63. Defendants knew that – or acted with reckless disregard as to whether –  
4 their refusal or failure to properly compensate Plaintiff over the course of his  
5 employment would violate federal and state law, and Defendants were aware of the  
6 Arizona Wage Act’s requirements during Plaintiff’s employment. As such, Defendants’  
7 conduct constitutes a willful violation of the Arizona Wage Act.  
8

9           64. Plaintiff is therefore entitled to compensation for his unpaid wages at an  
10 hourly rate, to be proven at trial, in an amount that is treble the amount of his unpaid  
11 wages, plus interest thereon, and his costs incurred.  
12

13           **WHEREFORE**, Plaintiff, Grant Albee, requests that this Court grant the  
14 following relief in Plaintiff’s favor, and against Defendants:  
15

- 16           A. For the Court to declare and find that the Defendants violated the unpaid  
17 wage provisions of A.R.S. § 23-350, et seq., by failing to pay wages due  
18 and owing to Plaintiff;  
19           B. For the Court to award an amount that is treble Plaintiff’s unpaid wages  
20 pursuant to A.R.S. § 23-355, in amounts to be determined at trial;  
21           C. For the Court to award prejudgment and post-judgment interest on any  
22 damages awarded;  
23           D. For the Court to award Plaintiff’s reasonable attorneys’ fees and costs of  
24 the action and all other causes of action set forth in this Complaint; and  
25           E. Such other relief as this Court deems just and proper.  
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27

**JURY TRIAL DEMAND**

Plaintiff hereby demands a trial by jury on all issues so triable.

RESPECTFULLY SUBMITTED this 24<sup>th</sup> day of May, 2022.

BENDAU & BENDAU PLLC

By: /s/ Christopher J. Bendau


Clifford P. Bendau, II

Christopher J. Bendau

*Attorneys for Plaintiff*

**VERIFICATION**

Plaintiff, Grant Albee, declares under penalty of perjury that he has read the foregoing Verified Complaint and is familiar with the contents thereof. The matters asserted therein are true and based on his personal knowledge, except as to those matters stated upon information and believe, and, as to those matters, he believes them to be true.

  
Grant Albee (May 24, 2022 15:51 PDT)  
\_\_\_\_\_  
Grant Albee